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Alice O Kiely  
71 Stonewall Court  
Yorktown Heights NY 10598-1819

MAILED

MAY 31 2011

OFFICE OF PETITIONS

ON PETITION

In re Application of :  
Ailce Mary O'Donnell-Kiely :  
Application No. 09/641,410 :  
Filed: August, 18, 2000 :  
Attorney Docket No. :

This is a decision on the REQUEST FOR RECONSIDERATION UNDER 37 CFR 1.181 filed May 5, 2011, requesting reconsideration of the Office of Petitions Director's petition decision mailed April 18, 2011 which dismissed as moot the petition filed December 16, 2010.

The above identified application was held abandoned for failure to properly reply to the final Office action mailed July 9, 2009. Applicant filed a petition under 37 CFR 1.181 to withdraw the holding of abandonment on March 29, 2010. The Technology Center Director denied this petition in a decision mailed August 11, 2010. Applicant filed a petition for review of the Technology Center Director's decision on September 10, 2010 which was dismissed and the instant renewed petition was filed May 5, 2011.

The Technology Center Director's petition decision mailed August 11, 2010 has been reviewed and no error discovered in this decision. The Technology Center Director did not abuse his discretion or act in an arbitrary and capricious manner in the petition decision of August 11, 2010. The record establishes that the Technology Center Director had a reasonable basis to support his findings and conclusion.

The petition is granted to the extent that the decision by the Technology Center Director has been reviewed, but is dismissed with respect to making any changes therein.

The petition to withdraw the holding of abandonment is dismissed.

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
- (2) The petition fee as set forth in 37 CFR 1.17(m), **\$810.00 for a small entity**;
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Form PTO/SB/64 is enclosed for your convenience. If you need assistance on completing the form, such assistance may be obtained by contacting our Inventor's Assistance Center at 1-800-786-9199.

Further correspondence with respect to this matter should be addressed as follows:

By mail:                      Mail Stop Petition  
                                    Commissioner for Patents  
                                    P.O. Box 1450  
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By FAX:                      (571) 273-8300  
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By hand:                     Customer Service Window  
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                                    401 Dulany Street  
                                    Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to Carl Friedman at (571) 272-6842.



Anthony Knight  
Director,  
Office of Petitions

Enclosure: Form PTO/SB/64